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15 BYTEDANCE INC.

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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**

19 YINTAO YU, an individual,

20 Plaintiff,

21 v.

22 BYTEDANCE, INC., a Delaware Corporation;
23 SHUYI (SELENE) GAO, an individual,

24 Defendants.

25 BYTEDANCE, INC. a Delaware Corporation,

26 Counter-Claimant,

27 v.

28 YINTAO YU, an individual,

Counter-Defendant.

Case No. 3:23-cv-04910-SI

MOTION IN LIMINE NO. 12

**MOTION TO EXCLUDE REFERENCE TO
THE CHINESE GOVERNMENT**

State Action Filed: September 5, 2023

Removal Date: September 25, 2023

Trial Date: November 18, 2024

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1 **TO THE COURT, PLAINTIFF, AND HIS COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE:** Defendants ByteDance Inc. (“BDI”) and Selene Gao (“Gao”)
 3 (collectively, “Defendants”), by and through their respective counsel, hereby jointly move *in limine*, prior
 4 to the voir dire examination of the jury panel, and before the presentation of any evidence, that this Court
 5 bar Plaintiff, Yintao Yu (“Yu”) and his counsel from presenting any evidence, argument, or reference
 6 concerning the Chinese government, Chinese Communist Party (“CCP”), or their operations, subdivisions,
 7 governing bodies, members (collectively, the “Chinese Government”), including but not limited to:

8 1. Any alleged involvement in retaliating against, threatening, intimidating, punishing, or
 9 harming whistleblowers, journalists, or political dissidents or any of their family members
 10 or acquaintances;

11 2. Any alleged involvement with or relationship to ByteDance¹ or its operations and
 12 employees.

13 Evidence, argument, and references to the Chinese Government or its acts and relationships is irrelevant
 14 and more prejudicial than probative.

15 **I. LEGAL ARGUMENT**

16 **A. The Chinese Government, Chinese Communist Party, and Their Related Operations**
 17 **Are Irrelevant to the Instant Action**

18 The alleged acts of, or ByteDance’s alleged relationship to, the Chinese Government are irrelevant
 19 because they do not make it more or less likely that Yu signed or otherwise entered into the agreements in
 20 question. Fed R. Evid. 401, 402; *U.S. v. Dean*, 980 F. 2d 1286, 1288–89 (9th Cir. 1992) (considering
 21 irrelevant evidence’s admission an abuse of discretion). Yu references the Chinese Government nowhere
 22 in this action’s complaint. ECF 1, Ex. 1-A. And even when Yu referenced the Chinese Government in his
 23 complaints filed in other actions, those references were never made in connection with his initial hiring,
 24 onboarding, or execution of employment-related agreements. *Fang v. Liu*, 2022 WL 3718507, at *2 (N.D.
 25 Cal. Aug. 29, 2022) (finding “no logical or legal relevance between Defendant’s political affiliation in
 26 China and any fact of consequence in [breach of contract] case” where relevance theory “[wa]s based on a

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 28 ¹ “ByteDance” refers to the ByteDance group of entities, which is inclusive of ByteDance Ltd. (“BDL”), ByteDance Inc. (“BDI”), and any other affiliate or operating entities, including TikTok Inc.

1 logical chain [whose] missing link" was not "pledged in the Complaint"). As such, any such reference or
 2 argument to the Chinese Government, including the Chinese Communist Party, is irrelevant and should be
 3 precluded.

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5 **B. Introduction of Any Evidence, Argument, or Reference to the Chinese Government,**
Chinese Communist Party, and Their Related Operations Would Be Substantially
More Prejudicial Than Probative

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7 Additionally, any attempt to introduce evidence, argument, or commentary regarding the alleged
 8 acts of, or ByteDance's alleged relationships to, the Chinese Government is substantially more prejudicial
 9 than probative. Invoking these would unduly prejudice Defendants by insinuating (without any merit or
 10 evidentiary basis) a connection to, involvement with, or complicity in alleged conspiratorial bad acts
 11 committed by a third party. Such would not only inflame the passions of the jury but also evoke
 12 unwarranted juror sympathy.

13 It would similarly confuse the issues and mislead the jury given the limited nature of the proceeding
 14 under the Federal Arbitration Act and its singular purpose in determining whether Yu signed or otherwise
 15 entered into the arbitration agreements in question. *Kinsel v. BMW of N. Am. LLC*, 2023 WL 11899597, at
 16 *11 (D. Ariz. June 21, 2023) (prohibiting parties from "referring to Plaintiff as a 'victim'" where doing so
 17 "carries little value and is outweighed by potential prejudice," including "improperly promot[ing] bias,
 18 sympathy, and inflame passion among the jury" and cause confusion by "impl[ying] criminal legal
 19 proceedings").

20 The legitimate risk of substantial prejudice is particularly apparent here given counsel's repeated
 21 invocation of these alleged acts and relationships in prior pleadings to insinuate ByteDance's connection
 22 to or complicity with a host of alleged atrocities, ranging from kidnapping to torture. ECF 85-1 (declaration
 23 of Yu's counsel attaching a host of irrelevant articles regarding alleged acts of the CCP).

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1 **II. CONCLUSION**

2 Based on these reasons, Defendants respectfully request that this Court prohibit any allegations,
3 references to, or mention of the Chinese Government.

4 DATED: October 22, 2024

5 GREENBERG TRAURIG, LLP

6 By: /s/ Charles O. Thompson

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